

**REMARKS**

1

The Examiner's objections to the claims have been remedied.

Claims 10, 11, 13, 16, 19-20, 22, 25, 28, 29 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,811,794 to Greene, cited by applicants. Claim 10 has been rewritten as newly submitted claim 34 with limitations added thereto which clearly distinguish Greene. Claim 34 states that the first tillage member has an inwardly extending portion which extends inwardly from the first beam. Claim 34 also describes that the second tillage member has an inwardly extending portion which extends inwardly from the second beam. Additionally, claim 10 states that the inwardly extending portions are positioned in an approximate center-line position, one behind the other. Claim 19 has been rewritten as claim 35 and also includes the newly added limitations discussed above which were added to claim 10. Claims 34 and 35 and claim 20, which has been amended to depend from claim 35, are not anticipated by Greene under 35 U.S.C. § 102. Each of these claims includes the limitation that the first tillage member has an inwardly extending portion which extends from the first beam and the second tillage member has an inwardly extending portion which extends inwardly from the second beam. These claims also include the limitation that the inwardly extending portions are positioned in an approximate center-line position, one behind the other. Clearly, Greene does not have tillage members as described in these claims which have inwardly extending portions so that the inwardly extending portions are positioned in an approximate center-line position, one behind the other. The tillage members of Greene are laterally spaced from one another and

1

10

14

20

2

1 there are no tillage members which are positioned in an approximate center-line  
position, one behind the other, as required by the claims. The center-line position  
required by the claims is extremely important since if the tillage members are  
positioned laterally of one another, the device will tend to move from side to side as  
5 the tillage members sequentially engage the soil. Inasmuch as the tillage members in  
applicants' device are in the center-line position required by the claims, the device  
tends to stay on a straight line during the tillage operation. Accordingly, the claims in  
question are not anticipated by Greene and should be allowed. The claims in question  
10 also are distinguishable from the foreign patent attached to the Office Action since it is  
clear that the tillage members thereof are not positioned in an approximate center-line  
position, one behind the other.

15 Claims 1, 2, 4, 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable  
over U.S. Patent No. 4,811,794 to Greene in view of U.S. Patent No. 3,057,412 to  
Hovis, Jr. Claim 1 has been rewritten as newly submitted claim 33 and now includes  
the limitations that the first hoe blade has an inwardly extending blade portion which  
extends inwardly from the first beam and that the second hoe blade has an inwardly  
extending blade portion which extends inwardly from the second beam. Claim 33 also  
20 describes that the inwardly extending blade portions are positioned in an approximate  
center-line position, one behind the other. The limitations added to claim 1 by way of  
being included in claim 33 are similar to that discussed above, the only difference  
being that the claims discussed above refer to tillage members while claim 33 refers to  
hoe blades. There is absolutely no teaching, suggestion or motivation to modify the  
25

1 structure of Greene with that of Hovis. Hovis teaches the use of a single tillage  
member or blade and does not even remotely suggest that a pair of blades could be  
used, as required by claim 33. In applicants' device, there will always be a blade in  
contact with the soil while in Hovis, the blade 156 will not be in engagement with the  
5 soil when it is in the dash position illustrated in Fig. 1 of the Hovis patent drawings.  
The combination of the Greene and Hovis patents does not make applicants'  
invention, as a whole, obvious to a person having ordinary skill in the art at the time of  
the invention. Even if Greene and Hovis were combined and modified as suggested  
10 by the Examiner, the resulting device would not have first and second hoe blades  
extending inwardly from beams so that the inwardly extending portions of the blades  
are positioned in an approximate center-line position, one behind the other.

15 In the Office Action referred to above, the Examiner indicated that claims 8, 9,  
17-18, 26-27 would be allowable if rewritten in independent form to include all of the  
limitations of the base claim and any intervening claims. Accordingly, claim 8 has  
been rewritten as newly submitted claim 30 with claim 9 having been amended to  
depend from claim 30 rather than claim 8. Claim 17 has been rewritten in independent  
form as newly submitted claim 31 and includes the limitations of claims 10 and 17.  
20 Claim 18 has been amended to depend from newly submitted claim 31 rather than  
cancelled claim 17. Claim 26 has been rewritten in independent form as newly  
submitted claim 32. Claim 27 has been amended to depend from newly submitted  
claim 32 rather than cancelled claim 26. Inasmuch as claims 1, 3-8, 10-17, 19 and 21-  
25 26 have been cancelled without prejudice, claims 9, 18, 20, 27, 28 and 29 have been

1 amended, and claims 30-35 have been added, it is requested that all of the remaining  
claims in the application be allowed.

5 No extension of time is believed to be due in connection with this Amendment;  
however, please consider this a request for any extension inadvertently omitted.

10 Respectfully submitted,



DENNIS L. THOMTE  
Registration No. 22,497  
THOMTE, MAZOUR & NIEBERGALL  
Attorneys of Record

15 2120 S. 72nd Street, Suite 1111  
Omaha, NE 68124  
(402) 392-2280

CERTIFICATE OF MAILING

20 I hereby certify that the original of this AMENDMENT for LAWRENCE J. ZACH,  
ET AL., Serial No. 10/720,805, was mailed by first class mail, postage prepaid, to Mail  
Stop Amendment, Commissioner for Patents, Alexandria, VA 22313, on this 15<sup>th</sup>  
day of December, 2004.

25   
DENNIS L. THOMTE